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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

KYLE DAUENHAUER, Petitioner/Appellee, v. FLORENE FEATHERMAN, Respondent/Appellant.	2 CA-CV 2010-0207 DEPARTMENT B MEMORANDUM DECISION Not for Publication Rule 28, Rules of Civil Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF GRAHAM COUNTY

Cause No. DO201000320

Honorable D. Corey Sanders, Judge Pro Tempore

AFFIRMED

Florene Featherman

Thatcher
In Propria Persona

V Á S Q U E Z, Presiding Judge.

¶1 Appellant Florene Featherman challenges the trial court's order of protection prohibiting her from contacting appellee Kyle Dauenhauer and his two minor children. On appeal, Featherman contends there was insufficient evidence to support the court's order, and the court abused its discretion by refusing to admit into evidence a tape recording that Featherman asked to be played at the hearing. For the following reasons, we affirm.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to upholding the trial court's ruling. *Smith v. Beesley*, 226 Ariz. 313, ¶ 3, 247 P.3d 548, 551 (App. 2011). In August 2010, Dauenhauer filed a petition for an order of protection against Featherman prohibiting contact with him and his children, M. Featherman and M. Dauenhauer, at their home, his place of work, and at the children's school. The petition alleged, among other things, that Featherman had left messages threatening the family in December 2009, had gone to the children's school and pulled them out of class in February and April 2010 and, in August 2010, had stopped the children's school bus in an attempt to remove them. Featherman was served with the court's ex parte order of protection and requested a hearing. Thereafter, the court found Dauenhauer had met his burden of proof and left the order of protection in effect. This appeal followed.

Discussion

¶3 Featherman contends Dauenhauer presented insufficient evidence of threats or violence to support the order of protection.[1] And she argues the trial court abused its discretion by refusing to listen to a tape recording of an incident involving a school bus manager, a police officer, and Featherman. She asserts the recording confirmed Dauenhauer "lied numerous times on his petition." We review a trial court's decision to grant an order of protection for abuse of discretion. *See LaFaro v. Cahill*, 203 Ariz. 482, ¶ 10, 56 P.3d 56, 59 (App. 2002).

¶4 A person may file a verified petition for an order of protection "for the purpose of restraining a person from committing an act [of] domestic violence."[2] A.R.S. § 13-3602(A). A parent may file the petition for a minor. *Id.* The petition must include "[s]pecific statements, including dates, of the domestic violence alleged." § 13-3602(C)(3). The trial court examines the petition and evidence offered by the plaintiff "to determine whether the orders requested should issue without further hearing." § 13-3602(E). If an ex parte order has been issued, the defendant is entitled to a hearing if

[1]Citing A.R.S. § 12-1809(B)(2), Featherman also contends the trial court's order was improper as to the oldest child, because that child was twelve years old at the time of the hearing. But, § 12-1809 concerns injunctions against harassment, not orders of protection. And, although § 13-3602(B)(2) contains similar language, Featherman has misinterpreted its meaning. The particular subsection of both statutes merely precludes the issuance of an injunction against harassment or order of protection "[*a*]*gainst* a person who is less than twelve years of age unless . . . granted by the juvenile division of the superior court." §§ 12-1809(B)(2) and 13-3602(B)(2) (emphasis added).

[2]"Domestic violence" is defined broadly and encompasses threatening or intimidating, A.R.S. § 13-1202, and custodial interference, A.R.S. § 13-1302, the type of conduct Dauenhauer complained of in his petition.

requested timely. § 13-3602(I). After the hearing, the court may continue the order of protection if it determines there is "reasonable cause to believe" either that the defendant "may commit an act of domestic violence" or that the defendant has committed such an act within the past year. § 13-3602(E)(1) and (2).

¶5 Although Featherman asserts there was insufficient evidence to support the trial court's order, she does not support her numerous statements of fact with any citation to the record as required by Rule 13(a)(4), Ariz. R. Civ. App. P. Nor does she support any of her arguments with legal authority. In fact, her opening brief does not conform in any meaningful way to the standards outlined in the Arizona Rules of Civil Appellate Procedure. *See* Ariz. R. Civ. App. P. 13(a). Consequently, this argument is waived.[3] *See id.* ("An argument . . . shall contain the contentions of the appellant with respect to the issues presented, and the reasons therfor, with citations to the authorities, statutes and parts of the record relied on."); *Polanco v. Indus. Comm'n*, 214 Ariz. 489, n.2, 154 P.3d 391, 393 n.2 (App. 2007) (appellant's failure to develop and support argument waives issue on appeal).

¶6 For the same reasons, Featherman's contention that the trial court abused its discretion by refusing to admit the tape recording at the hearing is also waived. The argument is without merit in any event. "Absent a clear abuse of discretion, we will not

[3]Despite Featherman's pro se status, we must hold her to the same standards as an attorney. *Old Pueblo Plastic Surgery, P.C. v. Fields*, 146 Ariz. 178, 180, 704 P.2d 819, 820 (App. 1985). "[W]here a party conducts his case in propria persona [s]he is entitled to no more consideration than if [s]he had been represented by counsel, and [s]he is held to the same familiarity with required procedures . . . as would be attributed to a qualified member of the bar." *Copper State Bank v. Saggio*, 139 Ariz. 438, 441, 679 P.2d 84, 87 (App. 1983).

second-guess a trial court's ruling on the admissibility or relevance of evidence." *State v. Rodriguez*, 186 Ariz. 240, 250, 921 P.2d 643, 653 (1996). On the record before us, we cannot say the court abused its discretion. The record on appeal does not include the transcript of the hearing. As the appellant, it is Featherman's responsibility to ensure that the necessary transcripts have been included in the record. *See* Ariz. R. Civ. App. P. 11(b)(1). Moreover, we must presume the missing transcript supports the court's ruling. *See Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (App. 1995) ("When a party fails to include necessary items, we assume they would support the court's findings and conclusions.").

Disposition

¶7 For the above reasons, we affirm the trial court's ruling.

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

CONCURRING:

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge